

REMARKS

Claims 1, 2, 4-6 and 8-27 are pending in this application. By this Amendment, claims 1, 2, 6 and 10 are amended, and claims 3 and 7 are canceled. Claims 1 and 6 are amended to incorporate the limitations of canceled claim 3. Claim 2 is amended to recite "PLA (phospholipase A)" consistent with the Patent Office's suggestion. Claim 10 is amended to recite a range of 4 to 185 parts by mass of plant sterol. Support for this amendment may be found at least at paragraph [0042]. No new matter is added.

Rejection Under 35 U.S.C. §112, First Paragraph

Claim 26 is rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Specifically, the Patent Office alleges that the dispersibility properties set forth in claim 26 are not described in the specification.

Applicants respectfully point out that Example 5, at paragraphs [0102]-[0105] of the specification, describe the dispersibility properties recited in claim 26. Specifically, Example 5 shows that a floating layer is absent in a liquid dispersion when the complex is dispersed in a 0.9% sodium chloride solution so that the concentration of plant sterol is 15% by mass, and when the complex is exposed to ultrasound for 1 minute and left to stand at room temperature for 1 hour (see in particular, Table 7).

Thus, the dispersibility properties of claim 26 are described in the specification.

Applicants therefore respectfully request withdrawal of the rejection.

Rejection Under 35 U.S.C. §112, Second Paragraph

Claim 2 is rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Specifically, the Patent Office alleges that the term "PLA" is indefinite.

Claim 2 has been amended to recite "PLA (phospholipase A)," consistent with the Examiner's suggestion, and thus the rejection is obviated.

Applicants therefore respectfully request withdrawal of the rejection.

Rejections Under 35 U.S.C. §102(b)

Claims 1, 4, 5 and 6 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Corliss (U.S. Patent No. 6,113,972).

Applicants have amended claims 1 and 6 to incorporate the limitations of claim 3, in order to expedite allowance of the instant claims. The Patent Office indicated, at page 4 of the Office Action, that claim 3 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Thus, Applicants submit that claim 1 as amended, to include all limitations of the prior versions of claims 1 and 3 (there being no intervening claims), is allowable. Because claims 4 and 5 depend from, and include all limitations of claim 1, claims 4 and 5 are also allowable for at least the same reasons as claim 1.

Further, claim 6 also includes all of the limitations of the prior version of claims 1 and 3. Applicants therefore submit that claim 6 as amended is also allowable, for at least the same reasons as amended claim 1.

Applicants therefore respectfully request that the rejection be withdrawn.

Rejections Under 35 U.S.C. §103(a)

Claims 1, 2, 4-21 and 23-27 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Corliss, alone or further evidenced by Sugano (Journal of Biochemistry 50(6), 473-480 (1961)).

The Patent Office relies upon Corliss as above, with Sugano allegedly providing evidence of the presence of lipoprotein in egg yolk protein.

As above, the Patent Office has indicated that claim 3 is allowable if rewritten in independent form, and including all limitations of the base claim and any intervening claims.

Thus, Applicants submit that claims 1 and 6, as amended to include the limitations of allowable claim 3, are allowable.

Applicants therefore respectfully request that the rejection be withdrawn.

Allowable Subject Matter

Applicants gratefully acknowledge that claims 3 and 22 are allowable if rewritten in independent form. As discussed above, the limitations of claim 3 have been incorporated into independent claims 1 and 6 (claim 6 including all limitations of the prior version of claim 1). Thus, Applicants submit that claims 1 and 6 as amended are allowable.

Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1, 2, 4-6 and 8-27 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Daniel S. Kasten
Registration No. 45,363

JAO:DSK/tca

Date: May 11, 2009

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
--